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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/909,224	07/19/2001	Daozheng Lu	28049/34394C	1737

34431 7590 10/19/2005

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EXAMINER

SHEPARD, JUSTIN E

ART UNIT PAPER NUMBER

2617

DATE MAILED: 10/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/909,224	LU ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Justin E. Shepard	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-56 and 61-87 is/are pending in the application.
- 4a) Of the above claim(s) 57-60 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13-40, 61-69 and 79-87 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-12, 40-56 and 70-78 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 July 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____.  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>9/2/03, 11/26/03</u> .  | 6) <input type="checkbox"/> Other: ____.                                    |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. During a telephone conversation with Jim Flight on 9/23/2005 a provisional election was made without traverse to prosecute the invention of group 2, claims 13-40, 61-69, and 79-87. Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-12, 40-56, and 70-78 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

### ***Drawings***

2. The drawings are objected to because on figure 1, part 18 is labeled as "Anslog" instead of "Analog." Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the

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examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

3. The abstract of the disclosure is objected to because the abstract seems to refer to a non-elected group of claims, and not the elected group of claims as it should.

Correction is required. See MPEP § 608.01(b).

### ***Claim Objections***

Claim 61 is objected to because of the following informalities: The first and second logging means have the same limitations. The claim will be examined using the limitations of claim 79. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 13, 14, 17, 18, 21, 22, 23, 28, 34, 37, 38, 39, 40, 62, 64, 65, 66, 68, 69, 79, 80, 82, 83, 84, 86, and 87 are rejected under 35 U.S.C. 102(e) as being anticipated by Aras.

4. Referring to claim 13, Aras discloses a television audience measurement system for digital television equipment, wherein the digital television equipment is disposed in a

statistically selected location, the television audience measurement system comprising: software agent adapted to read (column 6, lines 2-6), from a data packet contained digital television programming (column 6, lines 55-57), a datum identifying a television program (column 7, lines 8-11), wherein the software agent is stored in memory associated with the digital television equipment (column 5, lines 45-50); an interface and communication apparatus adapted to transmit the identification datum to a remotely located central office (column 7, lines 23-27).

Referring to claim 14, Aras discloses a television audience measurement system of claim 13 wherein the digital television equipment comprises a receiver having a tuner, a microprocessor, memory, an operating system, and a video display unit (column 26, lines 21-27).

Referring to claim 17, Aras discloses a television audience measurement system of claim 13 wherein the digital television equipment comprises a set top box and a monitor (column 5, lines 45-50).

5. Referring to claim 18, Aras discloses a television audience measurement system of claim 13 wherein the digital television equipment comprises a personal computer provided with a television receiver (column 26, lines 21-27).

Referring to claim 21, Aras discloses a television audience measurement system of claim 13 further comprising a person identification apparatus (column 17, lines 32-39).

Referring to claim 22, Aras discloses a television audience measurement system of claim 13 wherein the identification datum is a program identification code of a television program (column 8, lines 5-9).

Referring to claim 23, Aras discloses a television audience measurement system of claim 13 wherein the identification datum comprises a program name (Table II).

Referring to claim 28, Aras discloses a television audience measurement system of claim 13 wherein the software agent is arranged to detect window activities conducted by an audience (column 7, lines 18-21).

6. Referring to claim 34, Aras discloses a television audience measurement system of claim 13 wherein the interface and communication apparatus includes an intermediate data collector (column 7, lines 23-24).

Referring to claim 37, Aras discloses a television audience measurement system of claim 34 wherein the intermediate data collector is a data collection facility located in the central office (column 7, lines 23-27).

Referring to claim 38, Aras discloses a television audience measurement system of claim 13 wherein the software agent is a software agent downloaded to the memory associated with the digital television equipment (column 26, lines 37-40).

Referring to claim 39, Aras discloses a television audience measurement system claim 13 wherein the software agent a plug in software agent of the digital television equipment (column 26, line 35).

7. Referring to claim 40, Aras discloses a television audience measurement system of claim 13 wherein the software agent is a floppy disk software agent of the digital television equipment (column 26, line 35).

Referring to claim 62, Aras discloses an apparatus for identifying a viewer selected television program from among a plurality of time overlapped television programs broadcast in a viewer selected broadcast channel and received by digital television program reception equipment (column 5, lines 45-50), wherein the digital television program reception equipment has a data port (column 5, lines 48-50; Note: a device that receives television signals is interpreted as having a data port to receive the transmission), the apparatus comprising: reading means connected to the data port for reading program identifying data from among data provided on the data port (column 7, lines 8-11); and storing means for storing the program identifying data (column 7, lines 20-21).

Claim 80 is rejected on the same grounds as claim 62.

Referring to claim 64, Aras discloses a apparatus of claim 62 wherein the digital television program reception equipment is a personal computer (column 26, lines 21-27).

Claim 82 is rejected on the same grounds as claim 64.

Referring to claim 65, Aras discloses a apparatus of claim 62 wherein the digital television program reception equipment is a digital television set (column 5, lines 45-50).

Claim 83 is rejected on the same grounds as claim 65.

8. Referring to claim 66, Aras discloses an apparatus for identifying a viewer selected television program from among a plurality of time overlapped television programs broadcast a viewer selected broadcast channel and received by digital television program reception equipment (column 5, lines 45-50), wherein the digital television program reception equipment has data port (column 5, lines 48-50; Note: a device that receives television signals is interpreted as having a data port to receive the transmission), the apparatus comprising: reading means connected to the data port for reading program identifying data from among data provided on the data port (column 7, lines 8-11); and, communicating means for communicating the program identifying data to a remote point (column 7, lines 23-37).

Claim 84 is rejected on the same grounds as claim 66.

Referring to claim 68, Aras discloses an apparatus of claim 66 wherein the digital television program reception equipment is a personal computer (column 26, lines 21-27).

Claim 86 is rejected on the same grounds as claim 68.

Referring to claim 69, Aras discloses an apparatus of claim 66 wherein the digital television program reception equipment is a digital television set (column 5, lines 45-50).

Claim 87 is rejected on the same grounds as claim 69.



***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 15, 16, 19, 20, 29-33, 35, 36, 61, 63, 67, 79, 81 and 85 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aras.

9. Referring to claims 15 and 16, Aras does not disclose a television audience measurement system of claim 13 wherein the digital television equipment is a set top box providing an analog television signal to an analog receiver; or a television audience measurement system of claim 13 wherein the digital television equipment comprises a set top box providing a digital television signal to a digital receiver.

At the time of the invention it would have been obvious for one of ordinary skill in the art to output the digital broadcast signal to digital or analog televisions. The motivation for this would be to have the widest user base possible. (Official Notice)

Referring to claims 19 and 20, Aras does not disclose a television audience measurement system of claim 13 wherein the digital television equipment includes a VCR; or a television audience measurement system of claim 13 wherein the digital television equipment includes a digital versatile disk player.

At the time of the invention it would have been obvious for one of ordinary skill in the art to add a media player to the system disclosed by Aras. The motivation would be

to add more features to the device therefore making it more appealing to consumers.

(Official Notice)

10. Referring to claims 29-32, Aras does not disclose a television audience measurement system of claim 13 wherein the interface and communication apparatus includes a serial port, parallel port, usb, or firewire.

At the time of the invention it would have been obvious for one of ordinary skill in the art to add various I/O ports to the system. The motivation would have been to add functionality, while using well known technologies to do so.

Referring to claim 33, Aras discloses a television system where a cable modem is used to send information upstream (column 17, lines 42-43).

Aras does not disclose a television audience measurement system of claim 13 wherein the interface and communication apparatus is arranged to send the identification datum to an Internet service provider via the Internet.

At the time of the invention it would have been obvious for one of ordinary skill in the art to send the identification datum to an ISP via the Internet. The motivation for doing this would be that a cable modem is commonly used as a communication device for a subscriber communicating with a cable company that is acting as an ISP.

11. Referring to claim 35, Aras discloses a television audience measurement system of claim 34 wherein the intermediate data collector includes a store and forward device (column 7, lines 23-27).

Aras does not disclose a system wherein the store and forward device is arranged to send the identification datum to the central office via a telephone line.

At the time of the invention it would have been obvious for one of ordinary skill in the art to use a telephone to broadcast the information to the head end. The motivation for this would be because it is common to dump the data to a central computer over the phone line (column 2, lines 32-36).

Referring to claim 36, Aras discloses a television system where a cable modem is used to send information upstream (column 17, lines 42-43).

Aras does not disclose a television audience measurement system of claim 34 wherein the intermediate data collector is an Internet service provider.

At the time of the invention it would have been obvious for one of ordinary skill in the art to send the identification datum to an ISP via the Internet. The motivation for doing this would be that a cable modem is commonly used as a communication device for a subscriber communicating with a cable company that is acting as an ISP.

12. Referring to claim 79, Aras discloses a method implemented by a software agent stored in memory associated with digital television equipment, wherein the software agent is arranged to acquire television audience measurement data relative to the digital television equipment (column 5, lines 45-50), the method comprising: logging a television program identification datum identifying a television program selected for viewing on the digital television equipment (column 7, lines 8-11); logging an identification datum associated with data corresponding to the television program selected for viewing on the digital television equipment (Table II).

Aras does not disclose a system wherein logging an internet identification datum associated with an Internet task of the digital television equipment.

Aras does disclose that the system can be a personal computer (column 26, lines 21-27).

At the time of the invention it would have been obvious for one of ordinary skill in the art to log internet usage and deliver it to the head-end. The motivation for this would have been because it is common practice for computers to log the internet usage, and therefore this data could be delivered to advertisers to better understand the habits of subscribers (column 7, lines 23-27).

Claim 61 is rejected on the same grounds as claim 79.

13. Referring to claim 63, Aras does not disclose an apparatus of claim 62 wherein the digital television program reception equipment is a digital converter.

At the time of the invention it would have been obvious for one of ordinary skill in the art to output the digital broadcast signal to digital or analog televisions. The motivation for this would be to have the widest user base possible. (Official Notice)

Claim 81 is rejected on the same grounds as claim 63.

Referring to claim 67, Aras does not disclose an apparatus of claim 66 wherein the digital television program reception equipment is a digital converter.

At the time of the invention it would have been obvious for one of ordinary skill in the art to output the digital broadcast signal to digital or analog televisions. The motivation for this would be to have the widest user base possible. (Official Notice)

Claim 85 is rejected on the same grounds as claim 67.

Claims 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aras in view of Houston.

14. Referring to claim 24, Aras does not disclose a television audience measurement system of claim 13 wherein the identification datum comprises an address of an Internet page.

Houston discloses a television audience measurement system of claim 13 wherein the identification datum comprises an address of an Internet page (column 6, lines 24-30).

At the time it would have been obvious for one of ordinary skill in the art to use an internet page as datum in the audience surveying system. The motivation would have been to inform the television studios whether the fans were visiting the websites of shows that they watched.

Referring to claim 25, Aras does not disclose a television audience measurement system of claim 13 wherein the identification datum comprises an identification code of an Internet page.

Houston discloses a television audience measurement system of claim 13 wherein the identification datum comprises an identification code of an Internet page (column 6, lines 24-30).

At the time it would have been obvious for one of ordinary skill in the art to use an internet page as datum in the audience surveying system. The motivation would have been to inform the television studios whether the fans were visiting the websites of shows that they watched.

Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Aras in view of Hendricks.

15. Referring to claim 26, Aras does not disclose a television audience measurement system of claim 13 wherein the identification datum comprises a banner of material viewed by an audience.

Hendricks discloses a television audience measurement system of claim 13 wherein the identification datum comprises a banner of material viewed by an audience (column 47, lines 31-37).

At the time of the invention it would have been obvious for one of ordinary skill in the art to use the banner for the datum as taught by Hendricks in the system disclosed by Aras. The motivation would have been to provide the datum disclosed by Aras to the subscriber in an easy to view form, as taught by Hendricks.

Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Aras in view of Ellis.

16. Referring to claim 27, Aras does not disclose a television audience measurement system of claim 13 wherein the identification datum comprises a signature extracted from a television program viewed on the digital television equipment.

Ellis discloses a television audience measurement system of claim 13 wherein the identification datum comprises a signature extracted from a television program

viewed on the digital television equipment (column 19, lines 65-68; column 20, lines 1-2).

At the time of the invention it would have been obvious for one of ordinary skill in the art to use the signature extraction technique taught by Ellis in the system disclosed by Aras. The motivation would be to make the identification still possible on analog systems (by using signatures in the audio portion) as well as digital ones, therefore increasing the user base.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin E. Shepard whose telephone number is (571) 272-5967. The examiner can normally be reached on 7:30-5 M-F.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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